THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION No.15249 of 2005

Dt:05.09.2005

Between:

M.Lakshmi Devi

.. Petitioner

and

The Joint Collector and another.

.. Respondents

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION No.15249 of 2005

ORDER:

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When the vacate stay petition filed by the second respondent is listed for hearing, with the consent of both the parties, the main writ petition itself is heard and disposed of.

The writ petition is filed seeking a declaration that the order dated 29.06.2005 passed by the first respondent-Joint Collector, Ananthapur in setting aside the order of appointment made by the Revenue Divisional Officer, Penukonda, dated 22.12.2003, as illegal and arbitrary.

As can be seen from the material on record, the writ petitioner was appointed as a fair price shop dealer of Gajjalareddipalli village on permanent basis *vide* proceedings, dated 22.12.2003. Questioning the same, the second respondent herein, who is an unsuccessful candidate, filed an appeal before the first respondent. The main allegation made by the second respondent was that the petitioner, who was appointed as a fair price shop dealer, was a resident of Kadiri town and not residing in Gajjalareddipalli village and on that ground alone, she was not eligible to be appointed as a fair price shop dealer.

Having regard to the nature of allegation, it appears that the first respondent has called for a report from the Mandal Revenue Officer, Kadiri with regard to the residential status of the petitioner. Accordingly, a report was submitted by the Mandal Revenue Officer, Kadiri, dated 19.07.2004. It appears that the first respondent, on the basis of the said report, concluded that the petitioner is a non-resident and accordingly, allowed the appeal on 29.06.2005, thereby setting aside the order of appointment of the petitioner dated 22.12.2003. Questioning the said order, the present writ petition has been filed.

Heard the learned counsel for the petitioner, learned Government Pleader and also the learned counsel appearing on behalf of the second respondent.

The learned counsel for the petitioner primarily contended that in the enquiry said to have been conducted by the Mandal Revenue Officer, Kadiri, no opportunity was provided to the petitioner and even a copy of the report dated 19.07.2005 was not furnished to her and therefore, the impugned order is illegal, arbitrary and in violation of principles of natural justice.

On a perusal of the impugned order, it is evident that the said order was solely based on the report said to have been submitted by the Mandal Revenue Officer. If that be so, the principles of natural justice require that a copy of such report should be furnished to the petitioner and an opportunity should be given to her to submit her objections, if any. Since no such procedure was followed, I am of the view that the impugned order cannot be sustained and the matter requires re-consideration.

Accordingly, the writ petition is allowed by setting aside the order impugned, dated 29.06.2005, passed by the first respondent. The first respondent is directed to consider the matter afresh after furnishing a copy of the report dated 19.07.2004 said

to have been submitted by the Mandal Revenue Officer, Kadiri to the petitioner as well as the second respondent herein and pass appropriate orders, as expeditiously as possible, preferably within a period of eight (8) weeks from the date of receipt of this order. It is made clear that this Court has not expressed any opinion on merits and it is open to the first respondent to hear both the parties and decide the matter independently. It is also brought to my notice that pending appeal before the first respondent, the petitioner was continued as a fair price shop dealer and even pending this writ petition, the petitioner is continuing as on today. In the circumstances, there shall be a further direction that the petitioner shall be continued as a fair price shop dealer of the shop in question, till the appeal is decided by the first respondent. There shall be no order as to costs.

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05.09.2005

kdl